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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CENTER FOR BIOLOGICAL DIVERSITY, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. 2:13-cv-01785-RFB-GWF
)	
v.)	
)	
TOM VILSACK, in his official capacity as)	
Secretary of the U.S. Department of Agriculture;)	
<i>et al.</i> ,)	
)	
Defendants.)	

**MOTION TO ADMIT GOVERNMENT ATTORNEY TO PRACTICE IN THE DISTRICT
OF NEVADA FOR DURATION OF ATTORNEY'S GOVERNMENT EMPLOYMENT**

AND

**SPECIAL SHOW CAUSE TO PERMIT APPEARANCE OF GOVERNMENT COUNSEL
*PRO HAC VICE***

Pursuant to LR IA 10-3, the United States of America respectfully requests that this honorable Court admit Government attorneys Julia S. Thrower and John H. Martin to practice in the District of Nevada for the above-captioned case and in all matters in this district during the period of employment by the United States. LR IA 10-3 provides:

1 Unless otherwise ordered by the Court, any nonresident attorney who is a member in good
2 standing of the highest court of any state, commonwealth, territory, or the District of
3 Columbia, who is employed by the United States as an attorney and, while being so employed,
4 has occasion to appear in this Court on behalf of the United States, shall, upon motion of the
5 United States Attorney or the Federal Public Defender for this district or one of the assistants,
6 be permitted to practice before this court during the period of such employment.

7 John H. Martin has been a licensed attorney since 1996. Mr. Martin is a member in good
8 standing of the State Bar of Colorado (Bar # 32667), and is also a member in good standing of the
9 State Bar of Nevada, presently in inactive status (Bar # 6048). Since 2001, Mr. Martin has been an
10 attorney employed by the United States Department of Justice, Environment and Natural Resources
11 Division, and his office is located in Denver, Colorado. Mr. Martin has never been subject to any
12 disciplinary action by any bar or court.

13 Julia S. Thrower has been a licensed attorney since 2007. Ms. Thrower is a member in good
14 standing of the State Bar of California (Bar # 253472). Since 2007, Ms. Thrower has been an attorney
15 employed by the United States Department of Justice, Environment and Natural Resources Division,
16 and her office is located in San Francisco, California. Ms. Thrower has never been subject to any
17 disciplinary action by any bar or court.

18 The grounds for this motion and special show cause to enter an appearance in this case are as
19 follows:

20 1. The “conduct of litigation in which the United States, an agency, or officer thereof is a
21 party, or is interested, and securing evidence therefor, is reserved to officers of the Department of
22 Justice, under the discretion of the Attorney General.” 28 U.S.C. § 516. In addition, pursuant to 28
23 U.S.C. § 515(a), the Attorney General or any other officer of the Department of Justice is authorized
24 to conduct any kind of legal proceeding, civil or criminal, which United States Attorneys are
25 authorized to conduct, “whether or not he is a resident of the district in which the proceeding is
26 brought.” Further, any officer of the Department of Justice may be sent by the Attorney General to any
judicial district in the United States “to attend to the interests of the United States in a suit pending in a
court of the United States, . . . or to attend to any other interest of the United States.” 28 U.S.C. § 517.

1 2. Pursuant to these statutory authorities, the Attorney General has delegated litigation
2 authority to the Assistant Attorney General for the Environment and Natural Resources Division. *See*,
3 *e.g.*, 28 U.S.C. §§ 510, 515-17, 519. Ms. Thrower and Mr. Martin have been designated by the
4 Department of Justice to represent the federal defendants in this case under the broad authority granted
5 to the Attorney General to conduct litigation on behalf of the federal government.

6 3. On June 6, 2012, this Court gave notice to the First Assistant U.S. Attorney for the
7 United States Attorney's Office for the District of Nevada that the Court "will no longer grant *pro hac*
8 recognition to Washington D.C. Justice Attorneys without a special show cause that they will comply
9 with court orders, local ethical rules and the rules of the State Bar of Nevada." (*United States of*
10 *America v. Estate of E. Wayne Hage, et al.*, 2:07-cv-01154-RCJ-VCF; ECF # 336 at 2). The
11 government acknowledges that the attorneys here are obligated to comply with the local rules of ethical
12 conduct of the courts before which their cases are pending as provided by federal statute and
13 regulation. 28 U.S.C. § 530B; *see also* 28 C.F.R. 77.4(a). The government therefore agrees that in this
14 case, Ms. Thrower and Mr. Martin must abide by the rules of ethical conduct adopted by this Court,
15 which are the standards of conduct prescribed by the Model Rules of Professional Conduct as adopted
16 and amended from time to time by the Supreme Court of Nevada, as they may have been modified by
17 this Court. *See* 28 C.F.R. 77.2(j)(1)(i); *see also* LR IA 10-7.

18 4. Undersigned counsel is aware of recent court orders denying motions to permit
19 government attorneys to appear unless the United States Attorney certifies that local Assistant United
20 States Attorneys ("AUSAs") are "incapable" of handling the litigation. The Department of Justice has
21 allocated resources and developed expertise in a wide variety of specialized areas of the law including
22 environmental, tax, civil rights, antitrust, and other subjects. When new cases are filed within such
23 specialty areas, attorneys from those specialized sections and agencies regularly handle those cases
24 with varying degrees of involvement from this Office, as determined according to Department policy
25 and on a case-by-case basis. The Department may have a host of reasons for concluding that the
26 Department's overall litigation program will function better if specialized attorneys handle a particular

1 matter, even though this Office could also litigate the case effectively. For example, a specialized
2 attorney might be considered better qualified for the case, she might currently be handling other matters
3 that involve the same issues and thus would be in a better position to ensure consistency of approach, or
4 she might have fewer competing demands on her time at a particular juncture. With respect, the
5 question then is not one of capability but of resource allocation, efficiency of operations and discretion.
6 And as has been explained in prior filings in other cases concerning this issue, such decisions
7 concerning the government's choice of counsel are reserved by statute to the discretion of Justice
8 Department officials.

9 Accordingly, the United States respectfully requests that an order be issued at the earliest
10 opportunity allowing Julia Thrower and John H. Martin to practice before this Court during the period
11 of their employment by the United States.

12 Respectfully submitted this 8th day of August 2014.

13 DANIEL G. BOGDEN
14 United States Attorney

15 /s/ Blaine T. Welsh
16 BLAINE T. WELSH
17 Assistant United States Attorney

18 **APPROVED** this 9th day of September, 2014.

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21 RICHARD F. BOULWARE, II
22 United States District Judge
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PROOF OF SERVICE

I, Blaine T. Welsh, certify that the following individuals were served with the **MOTION TO ADMIT GOVERNMENT ATTORNEY TO PRACTICE IN THE DISTRICT OF NEVADA FOR DURATION OF ATTORNEY'S GOVERNMENT EMPLOYMENT AND SPECIAL SHOW CAUSE TO PERMIT APPEARANCE OF GOVERNMENT COUNSEL *PRO HAC VICE*** on this date by the below identified method of service:

Electronic Case Filing:

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DATED this 8th day of August 2014.

/s/ Blaine T. Welsh
BLAINE T. WELSH
Assistant United States Attorney